

**UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND**

STEPHEN MELISE,
Plaintiff

v.

PATRICIA COYNE-FAGUE, in her official
capacity as Director of the **DEPARTMENT OF
CORRECTIONS; et al.,**
Defendants

C.A. No. 1:17-cv-00490-MSM-PAS

STATE DEFENDANTS' SUPPLEMENTAL STATEMENT OF UNDISPUTED FACTS

165. With respect to the finite number of bottom bunks at Medium Security, McCaughey testified:

Q. Has it been at capacity at any point in the last five years?

A. Not full capacity, but close.

State Defendants Exhibit D (McCaughey Deposition), at 45:01-45:03.

166. Dr. Salas testified that: "Anybody can fall out of a bunk." Defendants' Exhibit E (Salas Deposition), at 63:03-63:06.

167. Nurse Warren testified:

Q. After this second fall that he reported to you, was there any reason to believe that his falls were related to a medical condition?

A. No.

State Defendants Exhibit B (Warren Deposition), at 121:19-122:04.

168. Dr. Salas testified that Melise's reported falls were not a symptom "consistent with sleep disordered breathing." State Defendants' Exhibit E (Salas Deposition), at 62:22-63:02.

169. Dr. Salas further testified: “Full grown adults that have sleep apnea don't typically fall out of bed. They might wake up in the middle of the night. They might be a little groggy, but they don't fall out of the bunk, it's a bit odd.” State Defendants’ Exhibit E (Salas Deposition), at 63:03-63:06.

170. Dr. Salas testified that: “Anybody can fall out of a bunk. So, anybody can get injured. But with a seizure disorder, it's like you know ahead of time that there is a potential for problems. So you go ahead and preemptively try to prevent it.” Defendants’ Exhibit E (Salas Deposition), at 63:03-63:06.

171. McCaughey testified that:

Q. By looking at this document, can you explain why you asked for more info?

A. Because initially it just said bottom bunk, neck pain.

Q. Why would that require more info?

A. Because neck pain is not enough information for me to go on.

Q. Would you say that that is an illegitimate reason in your determination?

A. That's a request for needing more information.

State Defendants Exhibit D (McCaughey Deposition), at 83:13-83:22.

172. McCaughey testified:

Q. The circle, bottom bunk, can you explain to me what that indicates?

A. That's -- I circled that, saying that was the order I was approving.

Q. What is the significance of circling that order?

A. As I mentioned before, some of these orders come through with multiple requests on them. This is the most recent because it is the last one entered, so that's why I would circle it.

Q. Is there reason based on looking at this why you approved this request?

A. I approved it based on the information that was there, falls and apnea.

State Defendants Exhibit D (McCaughey Deposition), at 110:13-111:25.

173. Dr. Salas testified: “If you look at the [June 28, 2016] order in the computer, the way it's written, it looks redundant because she [Nurse Warren] wrote a bottom bunk, falls, dated 6-21-16 for a year, and then I came along a week later and wrote the same order for three months, which is a subset of the year. Which one would you follow? It's not really clear....”

State Defendants' Exhibit E (Salas Deposition), at Salas 66:07-66:25.

174. Dr. Salas testified:

Q. Was it unusual in any way that the plaintiff had been reporting falling out of bed in association with his sleep issues?

MR. LATHAM: Objection. You can answer.

A. Sleep apnea and sleep disorder breathing is not an uncommon diagnosis. It's seldom the case that somebody wakes up in the middle of the night and falls out of bed because of it, though. So, yes, kind of unusual.

Q. Was it unusual simply because it was infrequent; is that what you're saying?

A. I don't know that I've had a second patient that's ever reported that particular symptom associated with these other symptoms that are consistent with sleep disorder breathing. Full grown adults that have sleep apnea don't typically fall out of bed. They might wake up in the middle of the night. They might be a little groggy, but they don't fall out of the bunk, it's a bit odd.

State Defendants' Exhibit E (Salas Deposition), at 62:12-63:06.

175. Exhibits A through V are true and accurate copies.

Respectfully Submitted,

RIDOC Defendants,

By:

PETER F. NERONHA
ATTORNEY GENERAL

/s/ Justin J. Sullivan

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that the within document has been electronically filed with the Court through the ECF system on Tuesday, October 18, 2022 and that it is available for viewing and downloading. I also caused a true and accurate copy of the within document to be served through the ECF system on the following parties and/or counsel of record:

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